IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

Howard Scott Kalin,
In Proper Person,
Claimant/Plaintiff,

v.

UNITED STATES OF AMERICA,
All federal corporations, agents,
contractors and employees thereto,
Jointly And Severally,
Successors And Assigns,
Defendants/Respondents.

Claim No. HSK-20171108-01
In Re: 6:11-CR-197-Orl-22GJK
and other affiliated.

J U D I C I A L
N O T I C E T O
V A C A T E T H E
J U D G M E N T A S
V O I D A B I N I T I O

COMPLAINT
JURY TRIAL DEMANDED

COMES NOW, THE Claimant and Plaintiff/Third Party Intervenor, Howard Scott Kalin, in proper person; a live human man, rerum natura, hereafter, 'Claimant', as one of 'We The People' described in the United states Constitution of 1787, Bill of Rights, Declaration of Independence, Magna Carta of 1215, and other organic instruments crafted by the Founders of this nation. The Claimant hereby states for the record of this proceeding that the following is true, correct and certain to the best of the Claimant's knowledge and belief and is given under the penalty of perjury to wit:

WITNESSETH:

Commonwealth of Pennsylvania)
County of Union)
ss. Judicial Notice as per Fed.R.Evi. 201

My name and family appellation is Howard Scott Kalin.

I am a natural freeborn American of de jure status who enjoys the rights given from God in the organic papers establishing this country upon which all law and jurisprudence descends including Article I to X of my state Constitution. It is my right to exercise and submit this JUDICIAL NOTICE TO VACATE THE JUDGMENT AS VOID AB INITIO as per such right enshrined within the First Amendment Right To Petitition For The Redress Of Grievances without fee, misconstruance, and evasion of duty on the part of the Defendants/Respondents pursuant to Fed. R. Civ. P 43.

It is by 'special visitation' that I submit this NOTICE to correct this court from the irreparable harms, wrongs and injuries imposed by an illegal use of U.S. code inconsistent with the statute definition superimposing state criminal elements upon a similar federal criminal law counter to the evidence, facts and laws which govern modern jurispridence. See Koons v Nigh 543 US 50 (2004) & 508 US 439 (1993).

JURISDICTION

This action is brought pursuant to the Constitution of the United States ratified 1787 including the First, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Amendments. This action is also brought pursuant to the U.S. Supreme Court Rules Koons v Nigh 543 US (2004) and National Bank of Oregon v Independent Insurance Agents of America 508 US 439 (1993)(Justice Souter ruling that a court properly asked to contrue a law has the power to determine if such law exists. A statute's plain meaning must be enforced. Id at 508 US at Hn5 & 6.)

This Claimant also invokes this court's supplemental jurisdiction pursuant to the law over any and all state law claims and against any and all parties, known and unknown, at the time of this filing that are related to the claims in this action within the original jurisdiction of this court that they form part of the same case or controversy.

This action is also brought under federal law pursuant to Federal Rule of Civil Procedure 60(b)(4); The Administrative Procedure Act, 5 USC 706(2)(A); and any and all laws prohibiting the illegal use of U.S. code inconsistent with the statute definition from a valid Act of Congress deeming the indictment, adjudication, judment and penalty imposed as VOID AB INITIO. See McNally v US 483 US 350 (1987) (Justice White ruling that, 'There are no constructive offenses; before one can be punished. it must be shown that his case is plainly within the statute.' Id at Hn4)

JURY TRIAL DEMANDED

Claimant demands a trial by jury on each and every one of his claims as pleaded and enumerated by him and supported by the APPENDIX OF EVIDENCE relied upon as the controlling law in this matter, evaded and avoided by the Defendants in their silence, inaction, nonreply, noncompliance, nonrecognition, and contemptuous hubris exhibited against him by agents, employees and contractors of federal and state agencies of the correct Act of Congress governing this action, U.S. Constitution, Maryland Constitution, Florida Constitution, and other organic instruments providing

natural rights upon which the U.S. Supreme Court rulings named heretofore rely which do exonerate and vindicate this Claimant certainly, completely and also conclusively from an unproven liability by an illegal use of U.S. code contrary to the congressional intent of the statute imposing penalty. See also Mathis 570 US.

VENUE

This venue is proper for this United States District Court for the Middle District of Pennsylvania pursuant to the fact that the Claimant is physically in the district and the Defendants are continuing enforcement of judgment and involuntary servitude imposed by an illegal use of code contrary to an Act of Congress. Claimant is invoking his right to act as 'Private Attorney General' in his matter as a U.S. court's highest mission is to the Constitution and to protect the rights enshrined in the founding documents, 'a policy Congress considered of the highest priority.' See Newman v Piggy Park Ent 390 US 400 402; Buckhannon 532 US 598 (2001).

PARTIES

Claimant/Plainriff is appearing In Proper Person, In Pro Per. He is not Pro Se or other court of judicial contrivance to mask rights as privileges by his use of controlling law he cites as his remedy. He is currently housed contrary to law at LSCI Allenwood, White Deer, Pennsylvania. **Claimant is Howard Scott Kalin.**

Defendants/Respondents is the UNITED STATES OF AMERICA, a corporate fiction as described in 28 USC 3002(15) including any and all agents, contractors, and employees of the Federal Bureau of Prisons, U.S. Marshall, and other agencies, named and unnamed, known and unknown, complicit and cooperating with this action of illegal use of U.S. code against this Claimant as provided herein.

Defendants, UNITED STATES OF AMERICA, hereafter 'Defendants' for i.e., assumes any and all risk incidental to the supervision, operation, and maintenance of the White Deer, Pennsylvania facility which houses the Claimant including any and all agents, actors, contractors, employees and those assisting and complying with enforcement of the judgment in controversy.

NOTICE OF CLAIM

Claimant has filed numerous claims with other court(s), agency(s) which on information and belief was entered into the Defendants' records, Team Meetings, Administrative Relief Process or other files as deemed by the Defendants for posterity purposes. The Claimant was again silenced, ignored, not replied to, or otherwise barred or prohibited by local rules and other prohibitions blocking this Claimant from exercise of his First Amendment Right To Petition For The Redress Of Grievances, imposing fees and incomprehensible orders, opinions and other such recommendations and reports contrary to fundamentals. Such actions of the Defendants in toto to bar, prohibit, circumvent or otherwise use fee or device to prevent the exercise of a constitutional right is void and an unlawful action. See Pennsylvania v union Gas Co 491 US 1. Additionally, this circuit has ruled that one need not exhaust administrative remedies to the Defendants where only a court can provide such discharge and release and where the right concerns a superior constitutional right as opposed to an administrative privilege. See DE v Cent Dauphin Schl Dist 765 F3d 260 (CA3 2014) where Judge Fisher ruled:

> 'For those reasons, the United States Court of Appeals for the Third Circuit now holds that a party seeking to enforce a favorable decision ...need not exhaust administrative remedies before filing suit in a court of law.', and,
>
> 'We have held that a prisoner need not exhaust administrative remedies where [684 F3d 434] the issue presented involved only statutory construction.' See Vasquez v Strada 684 F3d 431 (CA3 2012).

Claimant also invokes his rights in state laws of the States of Maryland and Florida under the Constitutions and organic papers thereto for the illegal use of state code to acquire jurisdiction over him and then fraudulantly convey that authority and jurisdiction to a federal agency in violation of Article I, Section VIII, Cl XVII requisites requiring a state's cession and consent to jurisdiction.

CLAIMANT'S AVERMENT OF VERIFIED FACTS AND LAWS

Claimant enters this court with a JUDICIAL NOTICE TO VACATE THE JUDGMENT AS VOID AB INITIO pursuant to Fed. R. Civ. P. 60(b)(4); 5 USC 706(2)(A), Administrative Procedures Act and any and all other federal laws prohibiting the continued enforcement of a judgment found as void ab initio, void at inception.

Claimant has reviewed all the paperwork from the U.S. District Court issuing such and has by a cumulative dosage and quantum of evidence, facts and laws so determined that what has transpired is not in accordance with any Act of Congress or the U.S. Constitution, violating Oregon,Koons,Mathis,Wickard and other rules.

Claimant has not participated in nor was apprised of any paperwork matter in the district court nor can I find any true nexus on which such paperwork issued from such institution may do so under colorable law as used to restrain him from liberty, confiscating and seizing his person and property currently at bar.

Claimant empowers and authorizes this court to insist the use of the Clean Hands, Good Faith, Full Disclosure and Strict Scrutiny Doctrines as I have found and done so to arrive at my conclusion that the use of U.S. code utilized for indictment, adjudication and judgment is not correct, congressional and precise in this matter; that the judgment now enforced by the Defendants DOES NOT comply or yield to embrace our Constitutions, federal or state, nor any Act of Congress which are the only authorized, accepted and approved use, scope, cause and purpose of federal law for 'We The People' in the organic instruments founding this nation.

Claimant was never duly informed, noticed or advised with full disclosure, clean hands and good faith in the paper matter that he was subject to an alternative and arbitrary code of law, unwritten, unexpressed and unregistered in the halls of Congress. I have no understanding where such law originated from except that it is not the congressional intent of the law or constitutional intent of the law and in its present condition, it is void ab initio. See Riley 553 US 406,pg 838.

Claimant has not knowledge of the true party of interest or true cause of action

herein except that they are not from an Act of Congress and/or U.S. Constitution.

Claimant cannot find where 'We The People' ever rendered power or authority to these Defendants as such demonstrated on the papers from the district court, which is a court under Article IV of general territorial jurisdiction to handle an Article III special or limited jurisdiction suit. See Balzac 258 US 298 312.

Claimant hereby declares, proclaims and mandates that all law from which I am bound only eminates from a valid Act of Congress or the Constitution or it is void ab initio, a nullity, as though it never existed. See Justice Marshall in Marbury v Madison 5 US 137 (1803). It's not to be obeyed or enforced.

Claimant has never joined, contracted, applied for or declared any affiliation or membership to any de facto form of government seperate and apart from the de jure form of republican representation.

Claimant has always supported, advocated and advised for the republican form of government promoting private rights, private property and liberty.

Claimant is a natural, free born American, de jure solis, jure divino and a human being of flesh and blood. Justice Kennedy ruling in Zvotofsky v Kerry 135 SCt 2076, (2014) that,'de jure or de facto of a territory is not judicial, but is a political question...conclusively binds the judges.', quoting Oetjen 246 US at 302.

Claimant is not a party to any contract controversy, contentious conflict or feud in any of its forms with any republican form of government and has never surrendered his rights and status as one of 'We The People' in return for benefits or privileges from a corporation. I have always maintained and protected such rights rendered by the Founders in posterity and it is my right to act as a Private Attorney General as defined in 390 US 400 402 where such is attacked and encumbered by unlawful processes effected not only myself but the People of my state.

Claimant has never been informed he is part of a Statutory Trust, C'est Qui

Trust or other such instrument where he is liable for specific performance to some unknown trustee or party.

Claimant reserves any and all enumerated rights in the Bill of Rights as outlined in federal law and state law, commercial law, public policy or agency regulation. Explicitly, Claimant reserves his rights under his state business code §§ 1-209 and 1-103, 'without the U.S.' and as defined in 28 USC 1746; 26 USC 6103 and Article I, Section VIII, Clause XVII of the U.S. Constitution.

Claimant herewith certifies that pursuant to 15 Statute At Large, Chapter 249, Section 1 dated July 27, 1868 among others that 'We The People' only are liable to law created by Congress and the Constitution exercised by their representatives. Any unauthorized use of code, statute, regulation or otherwise outside these limits of law is usurpation and tortious action by willing tortfeasors and trespassers of rights.

Claimant rejects, condemns and denounces any party referring to this Claimant as 'chattel', 'subject', 'person', 'citizen', 'taxpayer', 'voter', 'servant', 'franchisee', 'peon' or other such verbage denoting acquiescence and tacit approval of authority and jurisdiction of the Defendants outside Article I, Section VIII, Clause XVII of the U.S. Constitution.

Claimant's venue has always been, fundamentally speaking, a state citizen as defined by the requisites placed upon the Defendants in Article I, Section VIII, Clause XVII of the U.S. Constitution.

This JUDICIAL NOTICE TO VACATE THE JUDGMENT AS VOID AB INITIO, being a right in the First Amendment is a constitutional instrument with the following Constitutional Articles/Rights, U.S. Supreme Court Rules and supporting law that what is currently enforced by these Defendants is devious, lawless and obscene.

Claimant states that pursuant to Federal Rule of Evidence 201(d), this court is bound to TAKE JUDICIAL NOTICE OF THE FOLLOWING:

BACKGROUND

On May 23, 2011, Howard Scott Kalin was arrested for alleged violation of Florida state law §800.04, engaging in sexual activity with a person 12 years or more but less than 16 years of age(minor) in Orlando, Florida by Detective Mike Miller of the Lake County Sheriff's Office. Howard Scott Kalin, hereafter, Claimant was the subject of an alleged attempt to persuade a minor to engage in illegal sexual activity. A sting operation was in operation of which the Claimant was the target. Claimant responded to an on-line service called as 'Adult Entertainment'. As a material fact, Claimant then clicked on to read an insert which read: 'Hey Guys...I'm home with my bored nephew'.

Other charges filed against this Claimant were §847.0135-Obscene Communication; amounting to 3 counts of this and 1 count under §800.04. Total Bond:$400,000.00. See EXHIBIT A, Lake County Sheriff's Office Booking Detail Sheet.

Claimant was interrogated and taken to county jail. Claimant hired Charles Fantl for a Florida court case. Claimant then signed a plea agreement. Claimant's family hires Charles Waechter who informed Claimant that the case was assumed by the Defendants United States of America. Claimant was not informed by either counsels that a transferance of equity and authority was consummated. Claimant was also not informed that he had committed an offense against the Defendants. Further, and most shocking, is the fact that the Defendants never justified how a Florida state matter was now federal matter of de facto influence.

This matter is not one of 'Who did what?', 'When did he do it?' but more than that, this is one of:

1. Lack of jurisdictional facts of how the federal government assumes as state criminal matter, as required by Art I, Sec VII, Cl XVII,
2. What elements were used to obtain a federal judgment since it was Florida Stat §§800.04 & 847.0135 which commenced the liability and 18 USC 2422(b), a U.S. code interpreter, to obtain a federal judgment

against the Claimant as titled by Mathis 570 US SCt (2015); Natl Bk of Oregon v Ind Ins Agents of America 508 US 439 (1993) and Koons v Nigh 543 US 50 (2004)(ruling that a court must perform an 'Elements-Only Inquiry' to obtain a federal judgment and that a use of U.S. code inconsistent with the statute definition from a valid Act of Congress is void, respectively.), and,

3. How did the Defendants utilize the 'interstate commerce' power and was it performed as per authority listed in Wickard v Filburn 317 US 111 (1942).

The Defendants are bound to provide any citizen upon demand and challenge whether he was subjected to appropriate, adequate and authoritative due process as inscribed in our Constitutions, federal and state. This writ is founded upon the legal research that what was performed did not comply with due process as acted upon by the Defendants. Instead, the Defendants took and exerted by demeaning execution an action which is based upon a usurpation by failing in supplying their compliance with Art I, Sec VIII, Cl XVII for territorial jurisdiction; failing to perform an Elements-Only Inquiry before entering judgment and failing to correctly and precisely employ the 'interstate commerce' element.

The Defendants and those who operate their agency Article IV courts are bound under Article VI, para. 3 of the U.S. Constitution to uphold it by their Oath of Office and Commission to Duty Affidavit filed for the public record. What this instrument reveals is that the Defendants acted as 'third party interlopers' and conducted a judicial review reserved for the State of Florida. But, most jolting, traumatic and astounding is the material fact an arbitrary, discriminatory, prejudicial and selective use of law from state and federal codes were coined and forged using elemental descriptors from each merged into one federal judgment. It is that use of law which Justice Kagan in Mathis 570 US declared <u>where a federal offense covers only the generic statute offense definition and if it goes beyond...</u>

it is not a federal offense, even if the actual conduct fits the generic boundaries. Id at 195 LEd 2d 611, and, where the use of U.S. code is inconsistent with the Act of Congress creating the law, it is THIS MISMATCH OF ELEMENTS[STATE VS. FEDERAL] SAVES THE DEFENDANT FROM A FEDERAL SENTENCE. Id at Hn7 and 195 LEd 2d 614.

A direct match of what started the liability in Florida law and what terminated the liability there and transferred it to a federal liability and the elements in federal law is the focal inquiry. THIS IS THE THRESHOLD INQUIRY. Justice Kagan in Mathis supra. What the Defendants have obtained in a federal judgment using state law elements does not square with the congressional intent of the statute used to convict this Claimant. Anything expanding federal authority outside the Constitution as articulated in Article I, Section VIII, Clause XVII is void for lack of criminal jurisdiction. Using state criminal law elements and superimposing them to a federal criminal statute to obtain a federal judgment is void for fraud. Anything distorting or interpersing the elements of conduct in law by addition of or subtraction of elements perverts the holistic endeavor of the Constitution and Congress creating laws out of thin air by secular administrative statist types who then assume unlimited powers like a king or potentate. The construction of law and its limitations of how it is to be used in a federal court is up to the Constitution and Congress and nobody more. All other editions, shapes, designs, and fashions of federal law are VOID AB INITIO, void at inception. See Natl Bk of Oregon v Ind Ins Agents of America 508 US 439 (1993), Justice Souter; Koon v Nigh 543 US 50 (2004), Justice Ginsburg and Mathis v US 570 US SCt (2015), Justice Kagan. See EXHIBIT B, Judgment In A Criminal Case, USA v KALIN, 04/25/2012.

The Defendants use of federal law, authority and jurisdiction does not correlate with a republican form of government. It is juxtaposed to every law and fundamental precept which founded this nation. The clear and plain use of law. This court may not shut it's eyes to what all see and understand as unlawful and corrupt. See Butler v US 297 US 1 (1936), Justice Roberts at Hn4 and Hn6.

I. THE CLAIMANT DEMANDS AND NOTICES THIS COURT PURSUANT TO FEDERAL RULE OF EVIDENCE 201(d) OF FUNDAMENTAL DEFICIENCIES QUO WARRANTO AND EX PARTE TO IMMEDIATELY VACATE THE JUDGMENT CURRENTLY AND ADMINISTRATIVELY IMPOSED AGAINST HIM AS VOID AB INITIO FOR FRAUD AND CONVERSION OF UNJUST EQUITY AS AUTHORIZED IN FEDERAL RULE OF CIVIL PROCEDURE 60(b)(4) AND TITLE 5, U.S.C. §706(2)(A) KNOWN AS THE ADMINISTRATIVE PROCEDURES ACT FOR ILLEGAL USE OF JURISDICTION

A false and fraudulant use of law is now keeping this Claimant from liberty. This court is mandated by the laws of the United States to vacate any judgment which is proven by an overwhelming cumulative casting of evidence, facts and laws to vacate as void ab initio, void from inception, any illegal use of law by judicial or law enforcement parties. The U.S. Supreme Court declares remedy must be so provided by Rule 60, 5 USC 706(2)(A) or any other device of the court to make the judgment null as though it never existed. See 98 US 61, citing judgment by fraud.

The United States Of America, as previous, 'Defendants', is a corporation as in 28 USC 3002(15) who currently hold and are enforcing a judgment against the Claimant by the following:

1. Illegal use of U.S. code contrary to the statute definition using state criminal elements of law superimposed on a similar federal criminal statute in violation of National Bank of Oregon v Ind Ins Agents of Amenrica 508 US 439 (1993) and Koons v Nigh 543 US 50 (2004).
2. Expansion of their territorial jurisdiction beyond and in violation of Art I, Sec. VIII, Cl XVII of the U.S. Constitution and Adams v US 319 US 312 (1943) and other laws herein.

The Defendants DO NOT have Article III standing by their utter failure to so provide the requisite proof of claim on the court record that they use their given authority and jurisdiction is a correct and constitutional manner rendering proper due process and equal protection of the laws to this Claimant.

The Defendants are currently operating outside Art I, Sec. VII, Cl XVII and the Tenth Amendment Seperation of Powers Doctrine. The Defendants ONLY enjoy two distinct jurisdictions:

> 'The United states has the burden of proving that federal jurisdiction exists. Under the definition of 18 USC 7(3) there are two ways such land may be within federal criminal jurisdiction. First, the property can be any lands reserved or acquired for use by the United States and under the exclusive or concurrent jurisdiction thereof. Alternatively, the property can be any place purchased or otherwise acquired by the United States by the consent of the legislature of the state in which the same shall be for the erection of a fort, magazine, dockyard, or other needful building.' Id at 316.
>
> See US v King 781 FSupp 315 (3rd Cir 1991) quoting Judge Simandle.

This Third Circuit case exonerates the Claimant as the Defendants have not ever provided that they proved federal jurisdiction on the court record as they have not met the first requisite by reservation or acquisition of the land where they allege a crime has transpired and they have not met the second as they do not show they have the requisite cession of jurisdiction from the legislature and governor of the state. See also US v Siviglia 686 F2d 832 835 (1981).

The history of case law possessed by this Claimant confirms and concludes that the Defendants always wish to exert an authority outside the inscribed limits of the organic instruments. Absent these constitutional requisites, it matters not to any court, judge or other law enforcement official what was obtained prior, what that prosecutor said, judge imposed or otherwise as it is all VOID AB INITIO VOID AT INCEPTION FOR VIOLATING Article I, Section XIII, Clause XVII of the U.S. Constitution. See Hagans v Lavine 415 US 528, Justice White.

The Defendants must not only meet this as prescribed which the record does not reflect but to add arrogance to artifice they insist the citing of a U.S. code section confers jurisdiction upon a court to act contrary to these. A party may attack a void judgment at anytime. See City of Chicago v Fair Empl Prac Comm 65 Ill 2d 108 112 (1976). This fake/false presumption rejected by the Claimant is

a FRAUD ON THE COURT RECORD as the fundamental requisites of Art. I, Sec. VIII, Cl XVII must be practically and professionally proofed as fulfilled by physical acqaisition of the state's legislature and governor jurisdiction over the land where they alleged the crime was accomplished, and this is not accomplished.

Quoting Justice Davis in pertinent part:(Ex Parte Milligan 4 Wall 2 (1866))

> 'The importance of the main question[fulfilling the requisites of Art I, Sec. VIII, Cl XVII] cannot be overstated; for it involves the very framework of government and the fundamental principles of American Liberty...The Constitution of the United States is a law for rulers and people, equally in war and in peace, and covers with the shield of it's protection all men, at all times, under all circumstances... every trial involves the exercise of judicial power; and from what source did the military commission...derive their authority? Certainly, no part of the judicial power of the country was conferred on them; because the Constitution expressly vests it in one supreme court and such inferior courts as Congress may from time to time ordain and establish, and it is not pretended that the commission was a court ordained and established by Congress...and there is no unwritten criminal code to which to resort can be had as source of jurisdiction.'

So, as Justice Davis concluded, no code suffices replacement of requsite acts under Art I, Sec. VIII, Cl XVII of the U.S. Constitution.

Judge Jerome Simandle in King supports Justice Davis's conclusion that the acts described of physical proof of claim of title and ownership of the land where the alleged crime took place and the state legislature's and governor's consent to cession of jurisdiction must be had or such judgment is void:

> 'Such 'Practical Use And Dominion'[Rule] was also found to exist in Blunt, [case cite], above, where the petitioner, a prisoner convicted of assault with a deadly weapon with the intent to do bodily harm while imprisoned

at the Federal Correctional Instittuion at Lexington, Kentucky, in violation of 16 USC 113(c) contested federal criminal jurisdiction by noting that the federal government had transferred approximately half of the acreage it had owned in the county for the (781 FSupp 317) establishment of state parks. He then argued that since the facility manager testified that he did not possess personal knowledge of the deeds transferring ownership of the land, the government did not adequately prove the land retained by the United States was that portion upon which the assault occurred. Since the facility manager did testify that no part of the Federal Correctional Institute had been conveyed, and it was undisputed that the assault occurred within the federal prison itself, the Sixth Circuit concluded that the trial court could have taken JUDICIAL NOTICE of federal criminal jurisdiction under the Erdos test...'.

Judge Simandle citing Adams v US 319 US 312 (1943) where a siminlar act of rape was contested on the same grounds, continued:

'The court found...so that all persons could know whether the United States was asserting 'no jurisdiction, concurrent jurisdiction or exclusive jurisdiction over its acquired land.' Id at 314.',

and,

'The court therefore overturned the convictions.' Id at 315'.

'It is apparent, then, that Congress has limited the power of the United States to prosecute offenses under the Assimilated Crimes Act, 18 USC 13(a), to crimes committed upon the places within the special maritime and territorial jurisdiction of the United States as defined in 18 USC 7. Under 18 USC 7(3), the United States has the burden of proving that it has acquired jurisdiction over such a place... [having failed to supply the proper title and ownership of the land where the alleged crime took place]...this property does not lie within the special maritime

and territorial jurisdiction of the United States.'

'Accordingly, the court holds that the United States has not established that this court has criminal jurisdiction...The criminal complaint must be dismissed for lack of federal jurisdiction, without prejudice to prosecution by local authorities.'

'The accompanying Order of Dismissal will be entered.

'JEROME B. SIMANDLE, UNITED STATES

MAGISTRATE JUDGE

Dated October 21, 1991'

A county sheriff, state policeman, city policeman or any law officer must adhere to this basic and narrow tenet of organic law. Where there is no federal requisites fulfilled, there is no federal jurisdiction. 'There is no presumption in favor of jurisdiction, and the basis for jurisdiction must be affirmatively shown[on the record].' Hartford v Davis 13 US 273, 16 SCt 1051. Any jurisdiction eminating from a presumption on the part of law enforcement or court official is fictitious and an unlawful tool of control to any deprivation of life and liberty guaranteed. Since no territorial jurisdiction exists on this record for the matter at bar, it is material that NO CRIMINAL JURISDICTION EXISTS and the Defendants are in default of in personam and subject matter jurisdiction as well. Any alleged or presumed jurisdiction in any form by the Defendants over a non-paticipant individual of the People, as the Constitution defines, DOES NOT EXIST, NEVER DID EXIST AND ALSO CANNOT EXIST WITHOUT FULFILLING THE REQUISITE OUTLINED IN ARTICLE I, SECTION VIII, CLAUSE XVII.

The Claimant asserts that, 'The law provides that once state and federal jurishas been challeged, IT MUST BE PROVEN.' See Maine v Thiboutot 100 SCt 2502 (1980). 'Where there is absence of jurisdiction[requisites], all administrative and judicial proceedings are a nullity, and confer no right, offer no jusitification, and may be rejected upon collateral attack.' See Thompson v Tolmie 17 LEd 381 (1829).

Where there is no jurisdiction proven as the Constitution demands against the Claimant on the record, how can there be a correct use of U.S. code or statute aligned to comply with Federal Rule of Civil Procedure 60? Or to comply with 5 USC 706(2)(A), the Administrative Procedures Act? Or any federal law providing remedy for that matter? There cannot. It is a legal enigma.

The Constitution confirms that without these requisites of Article I, Sec. VIII, Cl XVII being fulfilled, 'No sanctions can be imposed absent proof of jurisdiction.' See Standard v Olsen 74 SCt 768, 98 LED 1151 (1954). The Administrative Procedures Act at 5 USC 558(b) provides:

> 'The proponent of the rule has the burden of proof.' [of jurisdiction]. [Emphasis Added][5 USC 556(d)].

Where these have not been fulfilled heretofore, the judgment is void even on 'final determination.' See Basso v Utah Power & Light Co 495 F2d 906 at 910. The Maxim of Law, 'The law requires, not conjecture, but certainty.' 'Uncertain things hold nothing.'See Coffin v Ogden 85 US 120 124. There is no fraud, the agent of government may say in this matter? 'When any court violates the clean and unambiguous language of the Constitution, a fraud is perpetrated and no one is bound to obey it.' See State v Sullen 63 Minn 167, 65 NM 262, 30 LRA 630. The court that rendered judgment without fulfilling Article I, Sec VIII, Cl XVII, violated Federal Rule 60 and 5 USC 706(2)(A) for, 'A court lacking jurisdiction cannot render judgment but must dismiss the cause at any stage of proceedings in which it becomes apparent jurisdiction is lacking.' See US v Siviglia 686 F2d 832 835 (1981). So too is this judgment by these Defendants void for fraud and lacking jurisdiction and must be dismissed as it is more than apparent on the record of their noncompliance with Article I, Sec VIII, Cl XVII thus denying due process and equal protection of these laws to this Claimant denying his liberty and property unlawfully.

These Defendants can never validate a constitutionally void act. See In Re Garcia 105 BR 335 (ND-Ill 1989). 'A party may attack a void judgment at anytime.' See

In Re RW Swant 111 Ill 2d at 310; Chicago v Fair Prac Comm 65 Ill 2d at 108; Bernard v Michael 393 Ill 130 135 (1945) and Cavanaugh v Lansing Mun Airport 288 Ill App 3d 239 246 (1997).

'The burden now shifts[to this court and Defendants] to prove jurisdiction [requisites were fulfilled].' See Rosemond v Lambert 469 F2d 416. 'The law is well settled that a void order or judgment is void even before reversal.' See Valley v Northern Fire & Marine Ins Co 254 US 348, 41 SCT 116 (1920). Once the jurisdiction is challenged, the court cannot continue enforcement or proceed when it clearly lacks all jurisdiction. The court has no authority to reach the merits but rather should 'dismiss the action.' See Melo v US 505 F2d 1026. This court has no discretion to ignore the lack of jurisdiction presented. See Joyce v US 474 F2d 2d 215. This court 'must prove on the record all jurisdictional facts [requisites] asserted.' See Lantan v Hopper 103 F2d 180; Chicago v NY 37 FSupp 150. The lack of jurisdiction may be raised at any time even on appeal. See Hill Top Developers v Holiday Pine Serv Corp 478 So 2d 368 (Fla 2nd DCA 1985).

The judgment noticed to this court to be immediately vacated quo warranto is either valid or void depending on the Defendants fulfilling the requirements of Art I, Sec VIII, Cl XVII of the U.S. Constitution. The record reflects no such compliance or inquiry which is fraud. See In Re Marriage of Hampshire 261 Kan 854, 862, 934 P2d 58 (1997). A judgment is always void if the court acted inconsistent with due process, It is a nullity and must be vacated, immediately. See 261 Kan at 862. This judgment is no exception.

'A judgment is one that has been procured by extrinsic or collateral fraud or was entered by a court lacking jurisdiction of the subject matter or parties.' see Rook v Rook 233 Va 92, 95 SE 2d 756 758 (1987). 'A judgment obtained without jurisdiction over the defendant is void.' Overby v Overby 457 SW 2d 851 (Tenn 1970). 'A judgment may be challenged in a post conviction habeas corpus or other proceeding.' See Beck 922 SW 2d 181; Heath 817 SW 2d 336 and Burns 441 SW 2d 532.

A recent discussion on the Rule of 60(b)(4) as grounds for attack of a void judgment is found at Fisher v Amaraneni 565 So2d 84 (Ala 1990). The judgment was set aside for lack of jurisdiction based on improper service. The court defined the judgment as void if it'lacked jurisdiction' or the parties acted inconsistent with 'due process.' Id at 86. It should be noted that Rule 60 involves a different standard than other remedies as, 'when the grant or denial turns on the validity of the judgment, discretion has no place of operation. If the judgment is void, IT MUST BE SET ASIDE.' Fisher at 87. The judgment is void as unconstitutional.

This court must do the constitutionally correct thing as Judge Simandle infers previously and correct a judgment for lack of federal criminal jurisdiction. The consequences of an act beyond the court's authority in the fundamental sense differs from the consequences of an act in excess of jurisdiction. An act beyond the fundamental sense is void; it may be set aside at any time and no valid right accrues. In contrast, an act in excess of jurisdiction..[is always void].' See People v Ruiz 217 Cal App 3d 574, 265 Cal Rptr 886.

It cannot be overstated that this Claimant was not afforded an impartial case or due process as he was entitled under Art I, Sec VIII, Cl XVII of the U.S. Constitution. See America Surety Co v Baldwin 287 US 156 166-167 (1932)(applying res judicata in an action to vacate a judgment for lack of jurisdiction.) See also Browning v Navarro 887 F2d 553 558-559 (5th Cir 1989)(res judicata applies to a void judgment for fraud.).

This is where prior courts have rebutted with, 'This paper is contrued as a 2255, 2241'or other such instrument; imposing a fee to continue; dismissing as per local rule; or any and all other devious devices to circumvent and prevent a petition a hearing and proper legal remedy as prescribed is the most diabolical and 'cunning deception or artifice used to circumvent or deceive another.' Throkmorton 98 US at 2. 'He is prevented from presenting his cause or defense and is therfore tricked out of a judgment[the original in controversy and one to remedy to fraud].' 98 US at 3. 'Fraud vitiates the most solemn contracts...even judgments.' 98 US 95.

It is a material fact that the Defendants have not complied with the spirit of Article I, Section VIII, Clause XVII of the United States Constitution of 1787 requiring these Defendants to acquire ownership and title to the land where the alleged crime took place and cession of jurisdiction from the state legislature and the governor's consent to proceed. On this alone the judgment now enforced against this Claimant is void, a nullity, it never existed.

Judge Simandle of this district in the matter of US v King 781 FSupp 315 operates with congressional and constitutional authority; a de jure delegation of fundamental power no person can question. Like the King matter, this judgment is void and 'must be dismissed for lack of federal jurisdiction.' Id at Footnotes. Anything less is due process and equal protection defection and abrogation now prejudicing the Claimant unconstitutionally.

II. THE CLAIMANT WAS SUBJECTED TO THE ILLEGAL USE OF ELEMENTS OF A STATE CRIMINAL STATUTE UNEXPRESSED IN FEDERAL CRIMINAL LAW BY ARBITRARY APPLICATION AND INTERPRETATION OF UNITED STATES CODE INCONSISTENT WITH THE STATUTE DEFINITION TO OBTAIN A FEDERAL JUDGMENT IN VIOLATION OF THE FOURTH, FIFTH, SIXTH, SEVENTH, EIGHTH, NINTH AND TENTH AMENDMENTS

An improper judgment was obtained and is now being enforced under federal law with usage of state statute elements which must be reversed and vacated for error of law by arbitrary application and interpretation of U.S. code inconsistent with the state definition of a similar federal law. The Claimant was adjudicated and convicted of 18 USC 2422(b),Attempted Enticement of a minor in sexual activity. As a result, the state criminal statute uses more elements to broaden its impact while the federal criminal statute of the same or similar type is generic. The broader law including the elements of 'obscene communication' and 'lewd behavior'. The generic or federal law including the narrower element(s) of 'interstate or foreign commerce', 'persuades,induces,entices or coerces', 'prostitution'. The state criminal statute covering all or most of the modes of unlawful activities which are unexpressed in the federal one, is discriminatory. See Mathis 570 US.

This court is now obligated to vacate and declare void any judgment obtained by arbitrary, discriminatory, predjudicial and selective acts of a prosecutor, judge or policman where the elements used were not the congressional intent as expressed and inscribed by the People's Representatives. It does so by comparing the elements of the generic version of the federal law with that of the state law. Qualification for illegal use of U.S. code occurs only if the elements used to acquire federal equity is annexed from another source than an Act of Congress. See Mathis v US 579 US SCt (2016); Natl Bk of Oregon v Ind Ins Agents of America 508 US 439 (1993) and Greenlaw v US 554 US 237 (2008); Koons v Nigh 543 US 50.

Under federal law, the offense the Claimant was convicted of reads: 18 USC 2422(b) "Whoever using the mail or any facility or means of interstate or foreign commerce or within the special maritime and territorial jurisdiction of the United States knowingly persuades,induces,entices,or coerces any individual who has not attained the age of 18 years to engage in prostitution or any sexual activity... Congress only refers to the usual or generic versions, not the variants of the

of the offense. Thus, in Congress's view, the offense has only a narrower view of the unlawful elements used to commit a criminal act,(See Mathis at Hn2 and Greenlaw at Hn7. See also Natl Bk of Oregon at Hn5,) and no more.

The U.S. Supreme Court proclaims that using a 'catagorical approach' solely on whether the elements of the offense sufficiently match the generic federal statute definition, ignoring the facts of the case. Distinguishing between elements and facts is central to federal operation and implementation of law. Elements are the constituent ingredients of the law's definition. It is the factors the prosecution must prove to arrive at judgment. At a trial, a jury must find all elements beyond a reasonable doubt. However, where a plea is entered, it is what is admitted to. There are elements that cannot be pled to or ruled on by a judge, but must be heard by a jury. See Alleyne v US 570 US Sct (2013); Apprendi v NJ 530 US 466 (2000) and Cole v Arkansas 333 US 196 (1948).

Facts are the real world issues usually described in police or sheriff's reports surrounding what was observed or done unrelated to the elements and having no legal effect or cognizment. Congress is uninterested in such diatribe. An alleged criminal act covering more than the prescription from Congress is not a federal qualifier having not fulfilled the elemental initiative within the statutory text and dictum. See Mathis at Hn3. The 'catagorical approach' is direct as it sets out a single or limited set of elements alongside the crime to see if there is alignment. See Mathis at Hn4. The U.S. Supreme court has accepted and authorized a 'modified catagorical approach' for the lower courts. Foe example, a court looks at a limited collection of documents to include the indictment, jury instructions, plea agreement, collequy, etc., to determine the crime and elements arriving at judgment. The court can then make a side by side comparison as the catagorical approach dictates with the relevant generic offense. See Mathis at Hn5.

A state's statute for a generic offense requirements will differ from Congress's narrower generic elements. In Iowa law under Iowa Code §702.12 for burglary will

reach 'any building, structure, or land, water or air vehicle.' The federal item equivalent will only express the term 'burglary' or 'arson' or 'extortion' without additional 'adjective elements'. These alternate elements of state law operate outside of Congress's intent. In essence, they create seperate and additional criminal offenses. Alternate elements increase or broaden the law's authority so that in contrast it diminishes a jury's duty to decide for instance 'where the alleged crime took place'. It is a multiplication of elements giving a 'shot gun effect' to the law. It is easier to hit a target with a 12 guage than a pistol.

Generally, a state offense does not qualify as a federal one where the elements are broader than those of the congressional intent of the same law, which is generic. Actions such as brute force used, facts, times, days, or going into the frame of mind of the alleged perpetrator to hypothicate or invent potential conduct makes no difference even if the conduct fits the generic elements. A mismatch of elements either actual or statutorial voids any judgment of conviction. See Cole 333 US at Headnote 3 where Justice Black iterated:

> 'It is as much a violation of due process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made.'

These ardent lines or reasoning of statute use and construction mandate and does explicitly demand a superior procedure is in play regardless of extraneous factors incepted by prosecutors, policemen or judge-made factors. The limits of power of a court's authority to enter judgment lies ONLY ON THE ELEMENTS OF THE GENERIC OR NARROWER STATUTORIAL DESCRIPTORS FROM AN ACT OF CONGRESS. See Mathis at Hn7.

Under federal law, the single generic list of elements is the mitigating factor. A sentencing court must discern with integrity which of the elements is intregal to a judgment using the limited documents analysis of the modified catagorical approach of the generic offense. See Shepard v US 544 US 13 26 (2005). Single elements are the 'core requisites' of the law's statute definition which must be

proved beyond a reasonable doubt to sustain this conviction against this Claimant and continue its enforcement. This simply is not the case here. If a petitioner pleads guilty to a crime, the government must prove the enhancement factors as well as the elements beyond a reasonable doubt. This has not been done here also. See Alleyne at Headnote 3.

Acknowledging that state law sweeps outwardly beyond the federal context of Congress's elements for a 'single offense', the strict scrutiny inspection of this court record reveals that a modified catagorical approach was used to convict. Essentially, a federal prosecutor and judge are accomplices, knowingly or unknowingly, in the use of state law elements to improvise a federal offense violating the Claimant's Fourth Amendment right to be secure in his person and property; Fifth Amendment right of due process of law; Sixth Amendment right to equal protection of the laws; Seventh Amendment right to a jury decision on those elements of an offense that cannot be pled to or decided by a judge; Eighth Amendment right to be at liberty; Ninth Amendment right to peace and tranquility and Tenth Amendment right to a seperation of federal from state powers limiting federal encroachment.

Expanding an Act of Congress's statute definition to include elements of an offense not expressed anywhere, not even in the orations of Congress, is about as corrupt and evil a motive to seize his person and property as that of the despots and dictators of human history can devise. See Terminiello 337 US 1 (1949). (ruling that it is only the Constituion's due process and equal protection of the laws than seperates our civil society from the 'despots and dictators.') A state law offense cannot qualify for federal criminal court intervention where the elements of the state law expand federal authority under a federal statute. See Taylor 495 US at 602. The 'brute force' used, the 'place where he did it', etc., here in this type of legal introspection is irrelevant. See Richardson v US 526 US 813 817. The only duty under federal law for a U.S. Attorney and U.S. Judge is to look at the elements of the offense against the United States, not the Claimant's conduct.

See Taylor at 495 US at 601 and Mathis 579 US at (a). As with this issue, in Mathis, he pled guilty to felon in possession of a firearm with 5 prior Iowa burglary convictions. The federal government exacted conviction and enhancement under the Armed Career Criminal Act. Although, the federal statutes used for conviction here are different that the Mathis affair, the use of state law elements to expand federal statutorial authority Congress never intended is identically the same, and must be vacated as void. See US v Throckmorton 98 US 61.

The U.S. Supreme Court establishes three reasons for adhering to an 'Elements-Only Inquiry' in validating a judgment:

1. Congress is concerned with the judge to ask whether priors fall within a 'legal and certain catagory'. See Mathis at 600.
2. Construing the intent of an Act of Congress within certain parameters outlined by Congress allows the judge or prosecutor to go no further which would violate the Sixth Amendment as only a jury and not a judge may find elements increasing or decreasing the penalty range of a federal law. See Alleyne at Headnote 1.
3. An 'Elements-Only Inquiry' avoids arbitrary, discriminatory, prejudicial and selective application and interpretation of federal law by use of elements unexpressed in the statute definition used to render judgment. See Descamps v US 570 US at 459.

The reasons are strong where a law, even a state one, lists alternate means of one or more elements to convict still supports an 'elements-only inquiry'. Sixth Amendment and other constitutional defects arise where a court or prosecutor explore hypothetical theories of guilt using imagined facts or elemental scenarios not defined by Congress. An offense entered into judgment under these auspices are void and remain void. See Old Wayne Mutual Life Assn v McDonough 204 US 8 (1907). Disjunctive methods not listed in law are not legal methods of adjudication but are illegal ones. A use of U.S. code inconsistent with the statute definition from

a valid, standing and black letter Act of Congress is not the law of the People's Representatives but of tyrants and secular administrative statists whose devotion is to the central government or agendic and revisionist schematic. 470 US 429 744.

The first task facing any court with this issue of unexpressed elements used to obtain conviction is to LOOK AT THE ELEMENTS USED TO CONVICT. This is the THRESHOLD INQUIRY. Justice Kagan in Mathis supra. If a law, federal or state, by its plain insistence, can resolve an 'alternately phrased or theoretically inposed statute', it must be used and determined.Where it does not then one can look at the record of a prior conviction for 'useful listing of elements of the offense. If the materials do not speak plainly and clearly, a judge will not be able to satisfy 'Taylor's Demand For Certainty.' See Shepard 544 US at 21.

In order for the government to sustain and continue enforcing this judgment, it must prove all the elements or constituent parts of the crime alleged by use of the legal congressional statute definition. they are what the jury must find beyond a reasonable doubt. See Richardson 526 US at 817. Where a plea is undertaken by the government and the alleged defendant pleads guilty, it is understood that the government is using the correct congressional intent of the law, not some artificially manufactured material list of elements from state law or other source as the law should operate in the judge's or prosecutor's imagination. See McCarthy v US 394 US 459 466 (1969). In such circumstances, the plea is void for fraud. See Throckmorton 98 US at Shedden v Patrick:

> 'The case, on principle, is an authority in these cases. Here, as there, it is charged that one side to the former litigation was possessed of facts which, if known to the other side of court, would have produced a different result, but which were fraudulantly concealed. There the case was not dismissed on the objection of res judicata and for the same reason the demurers here ought not to have been sustained.'

Circumstances or events having no legal impact or consequence need not be admitted to by anyone or found by a jury. They are, in reality of law, totally irrelevant here. See Taylor 495 US at 599-602. Where a federal offense covers only the generic statute offense definition and if it goes beyond those generic elements, IT IS NOT A FEDERAL OFFENSE, even if the actual conduct fits the generic boundaries. See 195 LEd 2d 611.

Referencing the prior Iowa example, California's statutes sweep more broadly than the federal as well with the intent to 'steal' in their burglary law to include 'shoplifting.' This would also not be a federal offense as it is not exactly expressed in the generic or federal version of the law. See Descamps v US 570 US at 461-462. If federal law is to include what a prosecutor or judge want it to include, 'Congress needs to speak more clearly.' Justice White in McNally v US 483 US 350 (1987).

Divisible definatory constructors such as the California law cited above do prohibit 'stealing', creating another offense. This matter concerns the same use of code written elsewhere superimposed on federal paper. Alternately phrased with not the federal generic diagnostics but one that lists multiple disjunctive elements pointing to a single element or offense. See Schad v Arizona 501 US 624 636 (1991) (ruling that legislatures frequently enumerate means of committing a crime without intending to define [exact] seperate elements or seperate crimes.)[Emphasis Added]

To more evince a careful precision of the prosecutor's illegal use of law in this matter, let us use the Iowa and California examples. Let's say a law does require the use of a 'deadly weapon' in it's definition. Further, the state law uses for example a 'knife, gun, bat or similar weapon' qualifies as such. This illuminates the 'Diverse Satisfaction Rule' to broaden application of a single element, the 'deadly weapon'. Operating like this a jury need not find that the person had any particular deadly weapon. The jury could convict even if one of the jurors said it was a 'gun' and another said it was a 'bat'. This is all due

to the 'diverse satisfaction' of a one broad application 'fits all' approach to the 'deadly weapon' element. These are 'legal extraneous descriptors' or 'circumstances' above the generic definition expanding federal authority. See Descamp 570 US at 457.

Like the Iowa law referenced herein, it itemizes various places that the crime of 'burglary' could be committed or occur by 'disjunctive factual scenarios' or a 'broad brushing' of law that seperate distinct elements into more or multiple occasions to delimit and swell the offense's impact. The issue before us is one of whether federal law treats this kind of statute as it does all others while imposing enhancement liability in sentencing on the state's criminal elements corrupting the federal generic offense's congressional intentions. Justice Kagan in Mathis supra, 136 SCt 2250.

Keep in mind that under Iowa law burglary reaches a broader array of places, 'any building, structure or land, water or air vehicle.' Iowa Code §702.12 (2013). These locations are not seperate elements. To the contrary, they are different means of satisfying 1 element, burglary. The Iowa Supreme court concurs:

> 'Each of the terms serves as an 'alternative method of committing [the] single crime of burglary that a jury need not agree on which of the locations was actually involved.' See State v Duncan 312 NW 2d 519 523 (Iowa 1991) and State v Rooney 862 NW 2d 367 376 (Iowa 2013).

This state law broadly phrased one crime of burglary by providing several places in a broad spectrum of wider proportion for the jury to include opposite the federal or generic law excluding this descriptor.

In Mathis, for example, the district court placed an enhancement. The appellate court affirmed, acknowledging that Iowa's law is more broad than federal counterparts. It brought in the referred catagorical approach to focus only on the elements of generic burglary. The verbage 'generic offense' gives way when a statute appears to list variable means which a person can satisfy an element. This is not generic

but broad application and interpretation of state law dissolved and imprinted unlawfully upon a federal one.'Reversed and Vacated.' Justice Kagan in Mathis. The itemized construction of a state law upon a federal one does not empower a federal court to issue warrants or explore a state legislature's authority. This is the Article X violation of the Seperation of Powers Doctrine. Rather, a federal court is only to be concerned and empowered by a federal law from Congress. See US v Appalachan Elec Pwr Co 311 US 377 (1941) quoting Justice Reed at Hn31.

More succinctly, a state crime is not on a federal predicate list if its elements are more broad than the federal generic offense. See Taylor 495 US at 602. THIS MISMATCH OF ELEMENTS SAVES THE DEFENDANT FROM A FEDERAL SENTENCE. Justice Kagan in Mathis supra at 195 LEd 2d 614. THE TAYLOR RULE SETS OUT ESSENTIALS OF FEDERAL CASES. A judge knows he committed burglary but if he is a federal judge, there is no federal authority to enter judgment using state crime elements and then add a federal enhancement, regardless of what federal law he is alleged to have violated:

> 'It is impermissible for a particular crime to sometimes count towards enhancement and sometimes not, depending on the facts of the case[not the elements]. [Emphasis Added].
> Id at Taylor at 601.

'A federal judge can only look at the elements of the [offense], not the facts of the [defendants]. Ibid.

The simple impression and point of this writ is the basis of all federal decisions where the U.S. Supreme Court has found:

1. 'ACCA refers to predicate offenses in terms not of prior conduct but of prior convictions and the elements of crimes.' Shepard at 19.
2. 'We have avoided any inquiry into the underlying facts [of the defendant] particular offenses and having looked solely to the elements of burglary as defined by state law.' James v US 550 US at 214.
3. 'We consider [only] the elements of the offense without inquiring into

the specific conduct...'. Sykes v US 564 US at 7.

4. 'The key [under ACCA, federal inquiry] is elements, not facts.' Id at Descamps v US 570 US at 451.

Without being repititious, it is only the elements or an 'elements-only inquiry' discussed previously which empowers a judge of federal order to act. Additionally, any element increasing the minimum or maximum range of penalties must be heard by a jury. See Alleyne, Apprendi and Cole supra. Nothing is more immoral and unconstitutional than to be convicted by non-elemental contrivance. See Nijhawan v Holder 557 US 29 36 (2009).

This writ makes clear that federal law only focuses on 'the elements of the statute of conviction.' see Taylor 495 US at 601. Any other use of federal law than the elements amounts to 'constitutional error.' See Shepard 544 US at 25. The federal judge is prohibited from conducting the inquiry himself and is barred from making a ruling on 'what the defendant and state judge must have understood as the factual basis of a prior plea' or 'what a jury in a prior trial must have accounted as a theory of the crime.' Id at Shepard v US at 25, 161 LED 2d 205:

> 'He can do no more consistent with the 6th Amendment than determine what crime, with what elements, the defendant was convicted of.' Jutice Kagan in Mathis at 136 SCt 2252, last line.

It is utterly lawless to enforce a judgment whether by jury, plea, bench trial, in absentia or otherwise where such was adjudicated by unexpressed intents. It is further immoral and lawless for a court or prosecutor to state that one cannot contest an illegal use of law for when the adjudication settlement was proposed one does not at the time whether the law agreed to violating is one of Congress or an overzealous judicial official. See Stein v NY 347 US 156 203 (1953). The Claimant at that point in time relies on the court's or prosecutor's integrity that what he is being held liable for is the law from the People's Representatives

in Congress not a dish of hyperbolic 'aspersion' or 'innuendo'. See Lexmark 572 US at Hn20. No one can be held liable to an unproven elemental catastrophe which murders the congressional intent. Any inconsistency of U.S. code with the statute definition from Congress is not law, but lawless. See 508 US 439 at Headnote 7. What has transpired whether by jury, bench trial, plea, in absentia or otherwise is an 'uncorrected fundamental infraction.' See McFarland 512 US 1256 at pg. 901. Such mistakes come back to haunt judicial officers by notice of error who dispense long sentences of unwarranted or unmandated origin under an unexpressed intent. Alternative or hypothetical views of the law are just that. Alternative and also hypothetical. They are not law in legal reality of Congress's discussions. They must only use the modified catagorical approach as a 'tool to identify the elements of the crime when a statute's disjunctive phrasing renders one [or more] of them opaque.' Id at Descamps 570 US at 451. Elements alone fit the true bill to convict, nonelemental facts do not support anything. Id at Descamps supra at 455-457. Where Descamps made it clear was that it is only elements, it meant just that and nothing else.' Justice Kagan in Mathis at 195 LED 2d 618.

If a different set or statute alternatives carry different penalties then under Alleyne, Apprendi, Cole et al., they are elements. See 530 US 466 at 490. Any element increasing a statute's penalty over the range of possible liabilities must be charged, adjudicated, heard by a jury, ruled on by a jury and entered by a jury's inference; not a judge's or prosecutor's opinion, report, recommendation or otherwise anything contrary to Congress. See Apprendi 530 US at Headnote 1.

If it is not an element, it is only a 'means' of the commission of the act as alleged. See US v Howard 742 F3d 347 353 (CA4 2013). Referencing the Iowa law again, 'a building, structure, et al.', reflects the means of the crime. If an indictment or jury instructions use 'means' instead of the elements to convict then that judgment too, is void on its face. See Us v Throckmorton 98 US 61 (1878). It is more than evident that there are courts/decisions for Congress where they are

to reconsider the workings of some federal statutes. See Chambers v US 555 US 122 133 (2009), Justice Alito and Descamps 570 US at 449, Justice Kennedy. As this is a reality, THE ELEMENTS-ONLY INQUIRY REMAINS THE LAW AND ANY OTHER JUDGMENT ANALYSIS BY ANY COURT IS VOID AND MUST BE VACATED.

Arbitrary application and interpretation of statute, federal or state, is prejudicial and discriminatory to the core. Everything this judgment contains has these selective and anti-congressional inputs and places this Claimant's matter as counter to what Congress intended as to the elements of the federal generic statute elements are concerned. As this judgment now confining the Claimant and his property was not performed using the elements-only inquiry as mandated by Justices in tandem herein agree, IT IS VOID AB INITIO. See Preston v Ferrer 552 US 346 353 (2008), Justice Ginsburg for the Court.

Use of arbitrary application and interpretation of law abound in the matter of US v Smith 866 F2d 1092 (CA9 1989)(Circuit Judge Cynthia Hall calling a use of non-due process administrative procedure as 'bootleg' to federal agents) and what was being said by a federal judge about a federal prosecutor was so inflammatory that it was concerning his conduct before the grand jury. See US v Kirkpatrick 575 FSupp 325 (D Colo 1983).

A broadened or expanded list of elements used to convict from a state law used and attached to a federal or generic law definition of elements must be vacated as arbitrary use of law by prejudicial and discriminatory means to thus continue confinement where the intent of Congress on this issue is unexpressed is evil motive. The party, prosecutor, judge or policeman, picking the winners and losers of the judicial lottery:

> 'When the uncertain language [unexpressed] of a statute promotes discriminatory and arbitrary enforcement, a person clearly within the statute's bounds may be permitted to challenge it's constitutionality.'
>
> See Gooding v Wilson 405 US 518 521 and Coates 402 US 611 619-620

The foregoing analysis leads it would seem to the following sound conclusions:

1. A state law's criminal elements are more broad creating more offenses.
2. A federal law's criminal elements are more narrow or generic, usually it is just one element, the actual intent of the law.
3. The Supreme Court decisions in Mathis, Natl Bk of Oregon and others herein provide that where a state's elements are used to broaden a federal law where it is unexpressed, such use is void ab initio.
4. The Supreme Court utilizes the Bouie and Grayned Rule to detail that such use is void for vagueness and its use is unconstitutional by indefiniteness. See Bouie Rule @ 378 US 347 and Grayned Rule @ 408 US 104.
5. To revive a federal law's unexpressed elements with a state law's elements fails to provide fair notice to the intended target:

> 'First, because we assume that a man is free to steer between lawful and unlawful, we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly. Vague laws [using unexpressed elements] may trap the innocent by not providing fair warning [notice]. Second, if arbitrary and discriminatory enforcement is to be prevented, laws must provide explicit standards for those who apply them. A vague law [with unexpressed elements] impermissably delegates basic policy matters [powers] to policemen, judges, [prosecutors] and juries [grand and petit] for resolution on an ad hoc and subjective [administrative or prejudicial] basis, with the attendant dangers of arbitrary and discriminatory application. Third, but related, where a vague statute 'abuts upon sensitive areas of basic First Amendment freedoms, it operates to inhibit the exercise of [those] freedoms.' Uncertain meanings [unexpressed elements] (502 F2d 1088) inevitably lead citizens to 'steer far wider of the unlawful zone'...than if the boundaries of the forbidden areas were clearly marked.'
>
> Id at Clark v Anderson 502 F2d 1080 1088 (CA3 1974) quoting Grayned + Bouie. [Emphasis Added]

A U.S. Attorney's duty is to the public trust. A trust in the financial and contractual idea of law. Use of a law he knows to be vague by precedent or an unexpressed intent violates that trust. The integrity he brings to the grand or petit jury to prosecute. But that is exactly what he did when this matter went to the grand jury to incept the indictment agenda.

The U.S. Attorney abused his indictment powers by intentionally and wilfully misleading the grand jury concerning the law on the Claimant's judgment.
In 1935, the Supreme Court discusses the duty of a U.S. Attorney:

> 'The United States Attorney is the representative not of an ordinary party to a controversy but of a sovereignty whose obligation to govern impartially is as compelling as its own obligation to govern to all; an whose interest therefore in a criminal prosecution is not that it shall win a case but that justice shall be done. As such, he is in a particlar and very definite sense the servant of the law, the two fold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnest and vigor - indeed he should do so. But while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one.'
>
> See Berger v US, 55 SCt 629; 295 US 78 88.

As made textually and unarted is the material fact that no prosecution in the federal realm can ascertain state criminal elements from a law and assign them to the federal compeer. This is striking a foul conviction using improper methods ignoring the legitimate means to bring about a just one. Knowing that the case was ripe with rot from such methods and devious devide, ALL PARTIES PROCEEDED AND TOOK A STATE CRIMINAL EXERCISE TO THE FEDERAL LABORATORY FOR CLONING. The usual reply is they did not, or did not know, or were not aware or approsed.

My question before this forum is, 'How can a U.S. Attorney who would know the proper method not insure that the correct method was followed?'. It rains on the matter that he is either inept, which is possible, but not likely. What is more the score is that he did not take the requisite care and the maintenance to follow due process as he was caught up in the excitement of the day, putting this Claimant away, at any cost by any contrivity.

Our government fears anarchy, but it is the Right To Petition For The Redress Of Grievances, and only that right that offers a republican form of our government the 'safety valve' needed whenever freeborn men delegate to the few such vast authority over our lives to act. It is ONLY through the sacred right of the First Amendment to petition that frustrated men and anomalous situations are rectified without bloodshed. This realization is not without historic acts and precedent as it was the Declaration of Independence, unanimously adopted by Congress, July 4, 1776, that Thomas Jefferson declared:

> 'In every stage of these oppresions, We The People have petitioned for redress in the most humblest of terms: our repeated petitions have been answered only with repeated injury. A prince character is thus marked every act which may define a tyrant, is unfit to be the ruler of a free people.'

The right to petition was not formulated by Jefferson, nor anyone in the states as colonies but was founded upon the oppressions of the freeborn by a king who was a tyrant during the 1600's in the famous form of 'seditious libel'. I take exception to the effect that I was charged unjustly using tyrannical acts of illicit law processes and the right to petition is my remedy or relief to inform and notice that what took place against me is lawless to the core. To arbitrarily assign state criminal law elements using state law officers and then transferring to a federal officer in a federal court imposing those elements to a similar federal criminal statute where Congress never intended is evil motive.

Government must concede that no such legal process permits such transfer of authority from the state to the federal appendage where the Constitution or Congress prohibits. True law only eminates from the Constitution or an Act of Congress for instituion of penalty against a citizen. See Ammoni 94 F2d 513 515. The most perverted genius of a prosecutor cannot even imagine such a vile prosecution as this:

> 'No more valuable an instrument of repression was known in England during the 1600's save that born the Star Chamber: the crime of seditious libel. In an era of universal and savage intolerance, the charge proved most useful to kings, bishops, prosecutors, and judges hostile to religious and political freedom.'

Sir Edward Coke who was appointed by the King in 1606 as Chief Justice of the Common Pleas sidelined as a judge on the Star Chamber convicting persons accused without evidence; perverted law, prosecutory misconduct and allegations abound. No rights were afforded. Only the opportunity to confess to the crime. In one such case an unapproved use of the law was used to obtain a confession without due process. The confession was obtained 'to composing and publishing a scandalous set of verses on two of England's highest clergyment.' Coke prosecuted the matter, similar to the way this prosecutor did, using law in a perverted manner outside his jurisdiction with elements not included in the House of Commons or House of Lords. 'This case drew little attention and drew Coke to widen his Star Chamber jurisdiction. See The Case of John Lamb, Star Chamber, 1606.

'Coke then proceeded to develope theory[of how the law must be used], without foundation[an expressed statutorial element], that truth is no defense[that the law used to prosecute him did not state his conduct was unlawful]. Truth of the allegations became even an aggrevation to the crime.' Freeborn Englishmen were prosecuted by this akward and scheming and tortuous method. The target victim was shamed to protect the king, bishop or his appointees from derogation of.

of the king's crown. This practice soon widened to include any preaching, petitioning, or publication concerned with royal dignity. In 1678, 12 high judges of England declared seditious libel punishable by common law. Here, the matter at hand is similar where a federal judge infused his opinion to reflect on a prohibited use of the law creating a precedent using unexpressed federal elements to obtain a federal judgment by extension of his jurisdiction and authority only reserved for Congress.

Thomas Cooley in his Treatise on the Constitutional Limitations, Vol. 1, page 728 states that the right to rely on the correct use of the law and to petition for its correction 'would seem unnecessary to be expressly provided that it could be practically denied until the spirit of Liberty has totally disappeared and the People had become so servile and debased[by an illegal use of law] as to be unfit to exercise any of the privileges of free men...'.

The charge brought unto this Claimant is illegal and cannot stand. It is a bastardization and perversion uncontemplated by Congress in its expressions, authority and jurisdiction. It is against the very risk of outright anarchy that it be quashed and put in the junk pile of precedents. What room is there to keep such use of law except for tyrants, despots and dictators as the Supreme Court Justices in Terminiello put forth? To criminalize acts outside the accepted and approved methods of a free People is a Star Chamber in modernity. Jean C. Hylton was the target of the king's wrath in the preceeding example where the Star Chamber instituted its place:

> 'If Mrs. Hylton's conviction is to stand, what man will dare to open his mouth, much less to use his pen, against even the worst government administrators, yea, even against a President who may be most corrupt and even confesseth to it? And if Mrs. Hylton's conviction stands, it then should be denominated high treason, for as surely as it is a seditious libel, it is upon the heels

> of treason...The charge against Jean C. Hylton, a freeborn sovereign citizen, is a most pernicious attack upon English liberty.'

This Claimant is a descendent of posterity from English law and the Magna Carta's 1215 proclamation. The unexpressed elemental attack using a state list of criminal conduct prohibited and pompously magnifying them unto federal charges to collect equity is a 'pernicious attack' on American liberty. This too cannot stand lest all the parties partake in the attitudes of the 'tyrant, despot and dictator.' The list of irreparable harms are defined and noticed. This must be vacated and expunged as an operation of law.

The court awarding judgment to the Defendants never looked at Congress's legal intent nor did it ever perform an 'elements-only inquiry'. The power of the original court and this one as well lies only where an Act of Congress uses a federal element to enforce penalty. The record of this matter reflects a mismatch of elements in the federal statute definition and the judgment obtained using state elements of comparative law. Such is not a federal offense and must be vacated for fraud violating the Claimant's 4th, 5th, 6th, 7th, 8th, 9th and 10th Amendment rights which are inviolable: whether the conduct of this Claimant falls within the federal criminal statute of which he is held liable by the Defendants. Clearly, certainly and conclusively, this Claimant is a vicitm of arbitrary, selective, discriminatory and prejudicial application and interpretation of a federal statute beyond the express boundaries Congress assigned. The Defendants judgment against this Claimant is void and remains void for a factory created legal definition from secular administrative statist revisionist types foraging outside their sphere of judicial influence.

III. THE GOVERNMENT LACKS THE ONE INTERSTATE COMMERCE ELEMENT NEEDED TO CONTINUE ENFORCEMENT UNDER THE STATUTE DEFINITION PURSUANT TO AUTHORITY IN WICKARD V. FILBURN 317 US 111 (1942) AS THE CLAIMANT IS AN 'UNREGULATED OTHER' UNDER WICKARD AND THE GOVERNMENT SHALL ONLY INTERFERE IF SUCH COMMERCE AFFECTS THE 'AGGREGATE ECONOMY' RENDERING CONSTITUTIONAL AUTHORITY

The Claimant places this portion of the writ before this court for the unlawful and incompetent procedure of government agents, both state and federal, as to not reveal the true nature and cause of the original proceeding violating the Wickard Rule at 317 US 111 (1942) and other precedents herein.

The Claimant asserts and declares that the government has failed to produce its proof of claim that it has the proper commerce power in this instance as so required in the U.S. Constitution and Wickard supra. Specifically, agents have failed to:

1. Produce any and all compliance with the Wickard Rule regarding the criminal element of 'interstate commerce' listed in statute.
2. Produce the interstate clause that makes this Claimant liable as the Claimant never was licensed, contracted, benefitted from any government program or surrendered his rights under law turning such into privileges under federal law, and,
3. Produce a copy of the statute with the exact statute definition in federal law matching the judgment currently enforced to comply with the McNally Rule at 483 US 350 (1987)(Justice White ruling that before one can be punished, his case must be plainly shown in the statute definition. There are no constructive offenses. There is no arbitrary application of law valid for enforcement. Only Congress or the Constitution can make law. Id at Hn4.)

As by the Claimant was convicted under 18 USC 2422 (b) whose first line of the statute definition reads:

> 'Whoever using the mail or any facility or means of interstate or foreign commerce,...'

It is the the right of this Claimant to insist, challenge and declare void any and all use of law by the government where it does not reach the conduct outlined in the Congressional Intent voiding its use to impose penalty as a fraud. See Landgraf v USI Fil Products 511 US 244 ruling 'where the congressional intent is clear, it governs.' ...'clear congressional intent that it[the current use of law at bar] was not applicable to [the] judgments entered before its effective date. 499 US at 837-838.' Quoting Justice Stevens.

The agents of government must operate with clean hands and the duty of this court is not to give santuary to agents whose use of the law does not comport with the Congressional Intent. See German Bank v US 148 US 573 581 ruling that any judge or official of government imposing the Doctrine of Subrogation upon a citizen must operate ate all times with 'clean hands.'

The precedent upon which the federal government relies in its ability to regulate interstate commerce is the Wickard Rule at 317 US. It is premised upon the fact that this Claimant is registered in some federal program to exercise its version of contractual jurisdiction outside of that defined in Art I, Sec VIII, Cl XVII. Because this Claimant NEVER took advantage or registered in a federal license, benefit or employment contract, the Wickard basis of authority does not apply and the jurisdiction of the federal government does not exist. The government does not control interstate commerce and it NEVER DID, LEGALLY SPEAKING. See The Propeller Gennessee Chief v Fitzhugh 12 How 443 where Chief Justice Taney for the U.S. Supreme Court proclaimed:

'IT DOES NOT REST UPON THE POWER OF CONGRESS TO REGULATE COMMERCE.'

If the government cannot control commerce, then, how can the judgment currently being enforced be valid? That is the central inquiry in this section. How can a federal judge enter judgment for the United States where no such 'interstate commerce' element was active by Congress or the Constitution? This is a core element requisite for conviction. The Wickard Rule is considered by the government

to be the controlling precedent upon which Congress expanded the definition of interstate commerce under the limited control in the Constitution and the Fitzhugh Rule under Chief Justice Taney. The question before the Wickard Court was, 'Can a piece of wheat be regulated by the federal government?'. In fact, in that case, the federal government had developed a subsidy to help farmers in a particular field of wheat farming. One such farmer, Filburn, filed an immediate complaint for injunction against the United States for violating the Agricultural Adjustment Act of 1938.

The Act set up quotas and imposed penalties for farmers who while taking the benefits of federal subsidies dolled out by the agency wanted to be immunized from penalties associated from not following the contractual provisions required to take advantage of the benefits administered. This Claimant has NEVER registered, received, had license or took part in any benefit from a federal or state agency regulating his actions under the Rule of Patrens Patria, government is boss, or correlating rules or Acts of Congress governing contracts. THE GOVERNMENT LACKS ANY AND ALL AUTHORITY AND JURISDICTION AS A MATTER OF LAW IN WICKARD. The Wickard Court wrote acknowledging the role of government had in bringing about federal jurisdiction over Filburn's activity to act under the 'interstate commerce' element of jurisdictional authority to wit:

> 'We can hardly find a denial of due process in these circumstances particularly since it is even doubtful that appellee's burdens under the program outweigh the benefits. It is hardly a lack of due process for the government to regulate that which it subsidizes.' Id at 317 US 130.

'Congress can only regulate activity if in the 'AGGREGATE', it has substantial effect on interstate commerce.' Id at 317 US 117. The Supreme Court struck down other attempts correlating with Wickard where the Court ruled: 'The lien against the crops[of Filburn] is a violation of the Fifth Amendment.' 317 US 130 supra.

These court precedents to date are:

1. Tyler Pipe Ind v Dept of Rev 483 US 232 (1987)(Manufacturing tax upon out of state purchasers ruled unconstitutional.)
2. West Lynn Creamery v Healy 512 US 186 (1994)(Massachusetts order imposing assessment on milk violated the Commerce Clause.)
3. Lopez v US 514 US 549 (1995)(The School Gun Act held unconstitutional.)
4. Printz v US 521 US 328 (1997)(Brady Act rquiring background checks ruled unconstitutional.)
5. US v Morrison 529 US 598 (2000)(Violence Against Women Act ruled as unconstitutional.)
6. Solid Waste Agency v Army Corps of Eng 531 US 159 (2001)(Clean Water Act requiring permit for discharge held as unlawful.)
7. Gonzales v Raiche 545 US 1 (2005)(Controlled Substances Act lacks the power of Congress to act under the Commerce Clause.)
8. Rapanos v US 547 US 15 (2001)(Clean Water Act judgment vacated on the grounds that wetlands do not fall within the scope of the Act.)
9. NFIB v Sebelius 567 US 519 (2012)(Medicaid expansion ruled unconstitutional.)

As Justice Jackson said in the Wickard Court and concluded that the government's complaint was void under the 'interstate commerce' element of the Commerce Claause:

1.'[It] is frivolous and the injunction in so far as it rests is unwarranted.' Id at 317 US 318. See also US v Rock Royal Coop 307 US 533, 59 US SCt 993.

2.'...under the Commerce Clause of the Constitution, Art I, Cl III, Congress DOES HAVE THE POWER IT HAS IN THIS INSTANCE IT SOUGHT TO EXERCISE. The question would merit little consideration.' Id at 317 US 118.

3.'Activities such as production, manufacturing and mining are strictly local... [and]...special circumstances which are not expressed here cannot be regulated under the Commerce Power, because its effects upon interstate commerce are, as a matter of law ONLY 'INDIRECT.' Id at 317 US 120.

4.'...He [Filburn] is able to market his wheat at a price, 'far above any world price based upon the national reaction of supply and demand.' Id 317 US 131.

In a long list of precedent condemnations, the Supreme Court has ruled that 'others' exist outside the authority and jurisdiction of every federal agency. 'It is of the essence of and through REGULATION that it lays a restraining hand on the SELF INTEREST OF THE REGULATED and that ADVANTAGE FROM REGULATION COMMONLY FALLS TO 'OTHERS'.' Id at 317 US 129, [Emphasis Added].

The Claimant is an Aggrieved Party in law and he is not now nor NEVER has been in registration, licensure, or receiving party to a federal or state benefit program under the matter at bar. As a conclusionary result, the Claimant is now and before has been EXEMPT from the authority and jurisdiction asserted by the federal and state governments herein. The element of 'interstate commerce' as defined in law and statute for which he was convicted as included as one conduct element is lacking. This Claimant may possess, manufacture, distribute and sell any and all products uncontrolled by the Wickard Rule and the Commerce Clause. The federal government's use of the Commerce Clause is void and does not exist as an expressed Congressional Intent to impose penalty, except in the 'AGGREGATE' as defined by Justice Jackson. In simple terms, the judgment now enforced is void. See Marbury v Madison 5 US 137 (1803).

This Claimant now demands through the authority herein that the Commerce Clause in the U.S. Constitution is not applicable to him. EVER. Secondly, this Claimant has the ability to contract is 'unlimited.'. See Hale v Henkel 210 US 43 (1905). The federal government is now burdening an unproven and illicit judgment against an American Citizen as defined in the U.S. Constitution and Wickard with other precedents to date condemning these encroachments. It is due to the illegal use of the 'interstate commerce' element and the Commerce Clause that the government has violated the constitutional rights of this Claimant. His Fifth Amendment right in particular existed long before the creation of the state. Id at Hale supra.

The federal government is prohibited from exercising a power that never did exist as put forth by Chief Justice Taney in Fitzhugh. They cannot exercise a power the People did not delegate to them in the Constitution. Under the Barron Rule at 7 Pet 243 the U.S. Supreme Court ruled no government agency can exercise a power unarticulated. Chief Justice Marshall found that the limitations on a government power exercised beyond the Founders intent is a Fifth Amendment violation citing that the Bill of Rights an exclusive check on the federal government in Washington, DC. Under such circumstances, even the Supreme Court he argued has no jurisdiction since this is a power of a citizen above and beyond any federal or state authority. The Barron Rule is quoted to date as the Rule to reject any encroachment by the federal government of a power not possessed by them. The Commerce Clause Power being not exclusive. The judgment against this Claimant by the federal government as under the Wickard and Barron Rules and others herein is void and must be vacated as an operation of law.

ABSOLVE AND RESOLUTION

The list of U.S. Supreme Court precedents prohibiting and restraining the federal government in the face of constitutional rights is monumental. The illegal use of a law outside the intent of Congress and the Constitution is the use of the weight of government to crush an opponent by selective and prejudicial means unexpressed in the statute definition creates little and uncontrolled fiefdoms for those in control. A dangerous dictatorial design. Justice Story describes just such a use of law and his disgust for any process of law beyond the original design and its validity:

> 'Although public documents[indictments & judgments] of the government accompanying property found...are deemed prima facie evidence of the facts which they state, yet they are always open to be impugned for fraud; and whether that fraud be in the original[indictment/judgment] obtaining those documents or in the subsequent fraudulant use of them, where once is satisfactorily established, it overthrows all their sanctity, and destroys them of proof[of their claim]'.
>
> Id at 15 Peters 520, US v The Libelants.[Emphasis Added]

Claimant has proven an illegal use of elements unexpressed in federal law,fraud, arising from state criminal law and other sources of the Defendants mind. 'The law creates the office, prescribes its duties.' See US v Smith 124 US 525 and Gravey v US 182 US 595. 'Primarily we may say that the creation of offices an and the assignment of such function and the extent of such delegation must have clear expression and implication.' See Burnap v US 252 US 512 516 (1920); Metcalf & Eddy v Mithchell 269 US 514 (1926); and NLRB v Coca-Cola 350 US 264 269 (1956). ''Officers' normally means those who hold defined offices. It does not mean the boys in the back room or other agencies of invisible government, whether in politics or trade union movement.' See Crowley v Southern Ry Co 139 F 851 853 (5th Cir 1905); Adams v Murphy 165 F 304 (8th Cir 1908) and Sully 193 F 185 187.

In the republican form of government descending from de jure powers and fundamental delegation of authority, 'There can be no offices of the United States strictly speaking EXCEPT THOSE WHICH ARE CREATED BY THE CONSTITUTION ITSELF, OR BY AN ACT OF CONGRESS.' See Comm of IRS v Harlan 80 F2d 660 662 (9th Cir 1935) and Pope v Comm of IRS 138 F2d 1006 1009 (6th Cir 1943).

The previous Supreme Court and other federal precedents all concur that authority and jurisdiction occur ONLY FROM AN ACT OF CONGRESS OR THE CONSTITUTION. The Defendants use of law is artificial, phony, bogus and an unexpressed intent of the Representatives in Congress. Their authority and jurisdiction is self-appointed and self-annoited by presumptive implication. Where power is not delegated by Congress or the Constitution, none exists. 'No constitutional power exists under the Ninth Amendment or to any other provision of the Constitution of the United States to trust the federal government and to rely on the integrity of their pronouncements.' See Mapco v Carter 573 F2d 1268 (EM-Conn App 1978) CERT DEN 437 US 904, 57 LEd 1134, 98 SCt 3090. 'Congress clearly views this procedure as essential to controlling delegation of power to administrative agencies.' See INS v Chadha 462 US at 960.

The Defendants have committed other exercise of authority and jurisdictional usurpation concerning the following but not limited to:

1. Creation of a bogus crime using Craigslist via illegal sting operation lacking predisposition, errors and illegalities in investigation.
2. Plea Agreement was not 'willful and knowing' as plea is unlawful and arbitrarily manufactured use of U.S. code contrary to Congress.
3. Elements of the crime in original indictment are not from Congress but are from a similar state criminal statute used to obtain a federal judgment.
4. A U.S. District Court is not an Article III court of 'special jurisdiction' but an Article IV court of general administrative law. See 258 US 298 312.
5. There was no victim of the alleged crime as described by the federal generic

statute matching the alleged 'minor' in the judgment.

6. Defendants concealed illegal police actions and scheme as the catalyst creating the crime tranferred to a federal court.
7. Indictment, adjudication, plea agreement and judgment do not survive an analysis under the Doctrine of Strict Scrutiny required for due process.
8. Multiple civil rights violations against law enforcement, federal and state, violating Article X Seperation of Powers Doctrine.
9. Mismatch of elements of the crime between the one used to convict and the ones from the Act of Congress.
10. Defendants manipulated the application, interpretation and enforcement of the federal statute of crime alleged using elements not expressed in the Act of Congress to seat a grand jury by fraud.
11. Not at any moment in adjudication did Claimant's counsel file for dismissal for illegal use of U.S. code inconsistent with the statute definition violating the 1st, 4th, 5th, 6th, 7th, 8th, 9th and 10th Amendments.
12. Never at any time did the Defendants possess the power from the Commerce Clause in interstate commerce as an essential element needed to convict.

RESOLUTION

This writ is a constitutional instrument which assigns, parcels and accounts for only the violation of fundamental law listed herein. These are etched and are framed with supporting law which the Defendants failed to provide due process and equal protection for this Claimant. Judge Simandle in this Third Circuit in King sounds the clarion call against the Defendants illicit and adulterous bastardization, and Justice Davis beyond Article I, Section VIII, Clause XVII of the U.S. Constitution:

'The importance of the main question[fulfilling the requisites of ownership/ title of the land where the alleged crime took place and cession of jurisdiction from the state's legislature and consent from the governor] cannot be overstated; for it involves the very framework of government and the

fundamental principles of American Liberty...' Id at 4 Wall 109.

This basic and cardinal substrate of our legal system in Article I, Section VIII, Clause XVII is nowhere to be found in the court record that the Defendants even inquired about it let alone placed such on the court record of its compliance. The Defendants case and controversy, authority and jurisdictional moxy is null and void right at this point,EVEN BEFORE THEY SEAT A GRAND JURY. See Simcic v Pitt Water & Sewer Auth 605 Fed Appx 88 92 (CA3 2015)(Judge McKee ruling that the court has no power to enter judgment and discharge its duties).

Secondly, the Defendants use of the state criminal elements 'lewd lascivious behavior','obscene communication','solicit,lure,seduce' which are property of the Florida Statutes §§800.04 and 847.0135, respectively, in the Lake County Sheriff's Office Booking detail Sheet, EXHIBIT A, ARE NOT the congressional intent of an Act of Congress under 18 USC 2422(b) but are from the consent of the Florida Legislature. Nowhere in law can the federal government assume a state matter without fulfilling Article I, Section VIII, Clause XVII mandates but also the Defendants are de facto and not de jure operatives merging, mixing and scrambling a legal mixture of criminal elements of a broader state criminal statute with those of a narrower and generic federal one. It was the state criminal elements which commenced the action of liability and then it was assumed by the Defendants illicit and sly presumption of authority to meld it to the federal familial component having the same or similar aspiration of law but not from Congress. It is This mismatch of elements saves the defendant[in the original action] from a federal sentence.' Id at Mathis 570 US SCt at Hn7 and 195 LEd 2d 614, Justice Kagan.

Finally, the Defendants have failed to use the 'interstate commerce' power as provided in the Constitution. Most notably is Chief Justice Taney's decree in Propeller Genessee Chief v Fitzhugh 12 How 443:

'IT DOES NOT REST UPON THE POWER OF CONGRESS TO REGULATE COMMERCE."

If Congress does not have the power to regulate commerce, then how did the

the Defendants get their power to regulate it and impose penalty on this Claimant? Moreover, Justice Jackson provides ample explicit fortitude in his decree in Wickard v Filburn 317 US 111 (1942) about the Defendants power to control commerce:

> 'Congress can ONLY regulate activity if in the AGGREGATE, it has substantial effect on interstate commerce.' Id at 317 US 117.
>
> and,
>
> 'The lien[judgment] against the crops[of Filburn is a violation of the Fifth Amendment.' Id at 317 US 130.

It doesn't rest on any power of the Defendants to control interstate commerce as it has against this Claimant as expressed by Chief Justice Taney in Fitzhugh and Justice Jackson in Wickard. This has been law all the way up to the NFIB v Sebelius Rule in 567 US 519. This is the law of this land, Art VI, Cl II, of which these Defendants and their complicit perpetrators are bound, state and federal. If the 5th Amendment was violated under Filburn, then, it is definite a 5th Amendment violation occurred in this matter.

The Defendants have committed unspeakable infractions, illicit machinations, and perverted progressions of law, due process and equal protection against this Claimant. This MEMORANDUM OF RECORD and COURT RECORD of this matter in ANY AND ALL COURTS reflect even rejection of petitions from this Claimant for 'failure to pay a fee', 'failure to exhaust administrative remedies', and any and all other such inferior laws advanced by administrative law types suffocating the Art VI, Cl II Claimant actions to rectify errors for relief as guaranteed in law.

This court is bound to the federal Constitution as the Supreme Law of the Land, Article VI, Cl II. This court must refuse, reject and condemn any and all law of these Defendants used to obtain the judgment they now currently enforce against this Claimant. This court '..must apply the supreme law and reject the inferior statute[law] whenever the two conflict. in the discharge of that duty, the opinion

of the lawmakers that statute passed by them is valid must be given great weight.' Carter v Carter Coal Co 298 US 238 at 297. But, the Defendants version of law never saw the light of day in Congress. Not in the Federal Register, Not in the Archives of Congress. Not in the Congressional Record. Nowhere. It is not law, but a melding of state and federal elements from the Defendants secular administrative mind. Imaginitive, ideological and inventive only by them. An arbitrary and prejudicial creation for some undisclosed benefit. VOID, NULL AND LAWLESS. See 5 US 137. Under those conditions;

> '..but their opinion[Defendants], or the court's opinion, that the statute[Defendants version of the law] will prove greatly benefieial is wholly irrelevant to the inquiry.'
>
> Id Carter supra quoting ALA Schecter Poultry Corp v US 295 US 495 549.

It matters not what these Defendants say contrary, or this court, or any court for that matter. This is the Supreme Law of the Land, Art VI, Cl.II of which all in this court are bound. Anything else contrary is 'wholly irrelevant'.

WHEREFORE, this Claimant demands his immediate release from illegal use of law, authority and jurisdiction as the judgment now enforced by these Defendants is now proven VOID AB INITIO, void at inception.

Where a citizen is actually innocent in law for the illegal use of U.S. code inconsistent with an Act of Congress; usurping territorial jurisdiction outside that described in Article I, Section VIII, Clause XVII of the U.S. Constitution and being absent of the interstate commerce element but more importantly forging a federal crime from a hodge podge of elements, federal and state, is an abuse of power, authority and prosecutorial discretion.

The U.S. Supreme Court announces in Schlup v. Delo 513 US 298 (1995) that an actual innocence claim precludes and is superior to any and all other Defendants claims contrary. Failure to not release this Claimant under this matter is 'cause and prejudice' contrary to fundamental orations in the Constitutional Conventions.

There obviously has been an injustice here upon which takes and supercedes any and all exceptions which may be raised by the Defendants. These constitutional violations invoked herein and in the accompanying instrument for damages is the Claimant's PROOF OF CLAIM required that this Claimant has met the burden of proof to show that had these been presented to a grand jury or petit jury, that the first would not indict and the second would not convict. See Murray v Carrier 477 US 478, 91 LEd 2d 397.

The violations against this Claimant are the definition of abuse and prejudice. Repeated denials, dismissals, and divestation of the Claimant's remedy processes by stating he must pay a fee, exhaust administrative remedies to an agency that cannot discharge the Claimant that only a federal judge can do, renaming writs and prior motions from what they are exactly to some other motion or 2255 or other such paper, etc.. is the use of inferior administrative agency law to block, evade and circumvent the Claimant's right to be immediately released. What is within is 'clear and convincing evidence'. There is no 'probably resulted' about it as the Schlup Court contends. An illegal use of U.S. code contrary to Congress, territorial jurisdiction in Art I, Sec VIII, Cl XVIII and lack of elements of the law which were from a state law and transformed to a federal is obscene, devious and diabolical, replacing the People's Representatives powers and granting them to a prosecutor, court or constable IS NOT ONE OF THE POWERS GRANTED BY THE CONSTITUTION.

It is certain, conclusive and certain that no juror, grand or petit, viewing these at the time the judgment was entered would have even sat for proceedings. Chief Justice Hughes in Schecter Poultry 295 US 495 recites it accurately:

> 'So long as a policy is laid down and a standard established by a statute, NO UNCONSTITUTIONAL DELEGATION OF LEGISLATIVE POWER IS INVOLVED TO SELECTED INSTRUMENTALITIES.' Id at Hn4 and US v Morrison 529 US 598 642 (2000).

As iterated earlier, anything contrary is 'wholly irrelevant' to a constitutional claim. Id 295 US 495 549.

WHEREFORE, this Claimant demands and judicially notices this court that an actually innocent person and his property have been illegally seized and illegally confined with a use of U.S. code found in no Act of Congress using a territorial jurisdiction found nowhere in Article I, Section VIII, Clause XVII of the U.S. Constitution of 1787 and with an element of interstate commerce Chief Justice Taney and Justice Jackson commands is lawless.

Claimant demands his immediate release post haste as a matter of law, and the judgment placed against him by these Defendants declared VOID AB INITIO, void from inception.

HOWARD SCOTT KALIN

By: Howard Scott Kalin

Howard Scott Kalin, In Proper Person

CERTIFICATE OF SERVICE

I, the Undersigned, did mail a copy of the JUDICIAL NOTICE TO VACATE THE JUDGMENT AS VOID AB INITIO to the named party below this 23rd day of January, 2017, via U.S.P.S. Tracking No. 7017 1070 0000 8753 5018.

Howard Scott Kalin

Howard Scott Kalin, In Pro Per
Claimant/Plaintiff

SERVICE OF PROCESS WAS EXECUTED UPON:

Asst. U.S. Attorney/Court Clerk
228 Walnut
U.S. District Court
Harrisburg, PA 17108

1. Complaint, 52 pgs.
2. Exhibits/Evidence, 3 pgs.
3. Claimant's Right To File Jurisdiction Claim, 5 pgs.
4. Memorandums of Law on Stature Construction, Common Law Rights, Authority & Jurisdiction, Void Judgments and Congressional Intent, 8 pgs.

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Howard S. Kalin #54969018
Allenwood Low Security
Correctional Institution
P.O. Box 1000
White Deer, PA 17887

CERTIFIED MAIL

7017 1070 0000 8753 5018

PLEASE DO NOT BEND

Low Security Correctional Institution
Allenwood, PA 17887
Date 2-12-8
The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification If the writer encloses correspondence for forwarding to another address, please return the enclosure to the above address

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